

DECISION



**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-219835

DATE: June 2, 1986

MATTER OF: Harry F. Hull - Travel Expenses -
Effect of Conversion of Appointment

DIGEST:

A commissioned officer in the Public Health Service, while on temporary duty in Washington, D.C., enroute to his permanent duty station overseas, was converted to a Foreign Compensation rating under an agreement between the Department of Health and Human Services and the Agency for International Development. Officer seeks reimbursement for the shipment of his foreign-made automobile and for his wife's per diem in Washington, D.C. Authorization for payment of travel expenses under the Joint Travel Regulations was administrative error and order may be modified to provide for travel expenses under the Foreign Service Travel Regulations. Since Foreign Service Travel Regulations permit payment of expenses incurred for the shipment of a foreign-made automobile and for dependent's per diem incurred at temporary duty station enroute to new permanent duty station, officer may be reimbursed for the total amount of his claim.

Dr. Harry F. Hull, a commissioned officer in the Public Health Service (PHS), Department of Health and Human Services (HHS), while on temporary duty in Washington, D.C., enroute to his permanent duty station in Banjul, The Gambia, was converted to a Foreign Compensation rating under an agreement between HHS and the Agency for International Development (AID). The question presented is whether he may be reimbursed for the shipment of his foreign-made automobile and for his wife's per diem in Washington, D.C. As explained below, we hold that Dr. Hull may be reimbursed the total amount of his claim.

BACKGROUND

Dr. Hull was called to active duty as a commissioned officer in the PHS effective July 25, 1979. He was authorized to travel from Seattle, Washington, to Banjul, The Gambia, with temporary duty enroute at Atlanta, Georgia, and Washington, D.C. His travel and transportation allowances were authorized to be paid in accordance with the Joint Travel Regulations. Dr. Hull was also authorized shipment of a privately-owned automobile. Under the authority of Personnel Order 7225.021, dated August 13, 1986, but retroactively effective to August 1, 1979, Dr. Hull's commissioned corps rank/salary was converted to a Foreign Compensation rating in accordance with an agreement between HHS and AID. Dr. Hull's conversion was governed by the terms of a Participating Agency Service Agreement (PASA) between PHS and AID. The agreement specifically stated that personnel serving under that agreement would be given the same privileges as other AID direct hire employees. However, the personnel order authorizing Dr. Hull's conversion did not amend his previous orders by prescribing travel and transportation allowances under the Foreign Service Travel Regulations as normally would be provided for AID employees.

In late July 1979, Dr. Hull and his wife separately traveled from Seattle, Washington to Washington, D.C., enroute to The Gambia, to attend a one-week orientation sponsored by AID. Dr. Hull was subsequently reimbursed for his travel expenses in accordance with the Joint Travel Regulations, but Mrs. Hull's expenses were disallowed on the basis of Paragraph M7000 of the Joint Travel Regulations, which prohibits payment of a dependent's transportation expenses to temporary duty points enroute to a new permanent duty station. This payment would be permitted if the Foreign Service Travel Regulations were applicable.

While in Washington, D.C., Dr. Hull was issued travel orders authorizing him to travel to The Gambia. His travel allowances were paid in accordance with the Foreign Service Travel Regulations even though the travel order specifically stated that his travel was authorized in accordance with the Joint Travel Regulations. Dr. Hull reported for duty in Banjul on September 3, 1979. His household goods were shipped and payment was made in accordance with the Joint Travel Regulations. However, Dr. Hull's claim for

reimbursement for the cost of shipping his 1980 Peugeot from Antwerp, Belgium, to The Gambia was disallowed because the Joint Travel Regulations prohibit shipment of foreign-made vehicles, subject to limited exceptions. These shipment expenses would also have been permitted under the Foreign Service Travel Regulations.

Dr. Hull has requested reimbursement of a total of \$1,864.59 for the shipment of his foreign-made automobile (\$1,668) and for his wife's per diem while in Washington, D.C. for orientation (\$196.59). The proper settlement of these claims depends on determining which travel regulations, the Joint Travel Regulations or the Foreign Service Travel Regulations, apply.

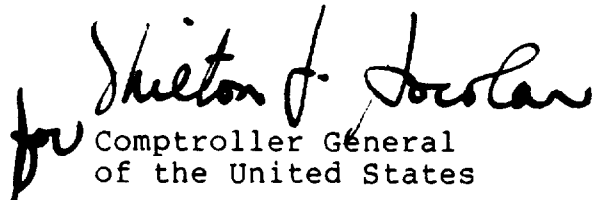
ANALYSIS

It is well established that legal rights and liabilities in regard to travel allowances vest as and when the travel is performed under the traveler's orders and that such orders may not be revoked or modified retroactively so as to increase or decrease the rights and benefits which have been fixed under the applicable statutes or regulations. An exception may be made only when an error is apparent on the face of the order and all facts and circumstances clearly demonstrate that some provision previously determined and definitely intended has been omitted through error or inadvertence in preparing the orders. 54 Comp. Gen. 638, 639 (1975).

Although Dr. Hull's travel orders specifically stated that his travel was authorized in accordance with the Joint Travel Regulations, the surrounding facts and circumstances show that the authorization for payment of travel expenses under these regulations was in error. The PHS has informed us that Dr. Hull was called to active duty with the intent that he would be converted to a Foreign Compensation Rating and sent to Banjul, The Gambia, under the PASA agreement. The fact that his orders authorized his travel under the Joint Travel Regulations rather than under the Foreign Travel Regulations was an administrative error.

The evidence in the record supports PHS' statement. Dr. Hull's conversion to a Foreign Compensation Rating, making him eligible for travel and transportation allowances under the Foreign Service Travel Regulations, was made effective on August 1, five days after Dr. Hull was called to active duty as a commissioned officer in PHS. The Personnel Order authorizing Dr. Hull's conversion did not amend his previous orders which authorized travel to Banjul, The Gambia, and shipment of his car. The timing of Dr. Hull's conversion, together with the fact that Dr. Hull's final travel destination was not changed after the conversion, supports the statement that PHS called Dr. Hull to active duty on July 25 with the intent of converting him to a Foreign Compensation Rating, and sending him to The Gambia under the PASA. This intent is further evidenced by the fact that Dr. Hull's own travel allowances were paid in accordance with the Foreign Service Travel Regulations. Since the PHS intended Dr. Hull to possess a Foreign Compensation Rating, Dr. Hull's orders should have authorized travel expenses under the Foreign Service Travel Regulations rather than under the Joint Travel Regulations.

Because it is evident that an error was made in preparing Dr. Hull's original orders, we conclude that Dr. Hull's orders may be modified to provide for payment in accordance with the Foreign Service Travel Regulations. Accordingly, since the Foreign Service Travel Regulations permit payment of a dependent's per diem during periods of an AID employee's temporary duty enroute to a new permanent duty station, reimbursement is authorized for Mrs. Hull's per diem incurred while attending the AID orientation in Washington. Reimbursement for the cost of shipping Dr. Hull's 1980 Peugeot from Antwerp, Belgium, to Banjul, The Gambia, is also authorized under the Foreign Service Travel Regulations. Settlement of Dr. Hull's claim will be made in accordance with the foregoing.


for Comptroller General
of the United States